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16 UNITED STATES BANKRUPTCY COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

18 In re)	Case No. 19-30089
19 PACIFIC GAS AND ELECTRIC)	Chapter 11
20 COMPANY,)	
)	
21 Debtor.)	
)	
22 In re)	Case No. 19-30088
23 PG&E CORP.,)	Chapter 11
)	
24 Debtor.)	SONOMA CLEAN POWER AUTHORITY'S
)	STATEMENT OF SUPPORT FOR DEBTORS'
)	PUBLIC PROGRAMS MOTION AND
)	RESERVATION OF RIGHTS
)	
26 Date:	January 29, 2019	
26 Time:	1:30 p.m.	
27 Courtroom:	17	
27 Place:	450 Golden Gate Ave., 16 th Floor	
28 Judge:	Hon. Dennis Montali	

SONOMA CLEAN POWER AUTHORITY'S STATEMENT OF SUPPORT
FOR PUBLIC PROGRAMS MOTION AND RESERVATION OF RIGHTS

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page	
3	Cases
4	<i>Aikin v. Neilson (In re Cedar Funding, Inc.)</i> , No. C 09-4311 RMW, 2012 WL 1110023, at *4 (N.D. Cal. Mar. 31, 2012).....13
5	
6	<i>FCC v. NextWave Pers. Commc'ns, Inc.</i> , 537 U.S. 293 (2003).....3
7	
8	<i>FirstEnergy Solutions Corp. v FERC</i> , 2018 WL 2315916 (Bankr. N.D. Ohio May 18, 2018).....4
9	
10	<i>Garland & LaChance Const. Co., Inc. v. City of Keene</i> , 144 B.R. 586 (D.N.H. 1991).....3
11	
12	<i>In re Bos. Generating, LLC</i> , No. 10 Civ. 6258, 2010 WL 4616243 (S.D.N.Y. Nov. 12, 2010).....4
13	
14	<i>In re Briarcliff</i> , 15 B.R. 864 (D.N.J. 1981).....3
15	
16	<i>In re Calpine Corp.</i> , 337 B.R. 27 (Bankr. S.D.N.Y. 2006).....3, 4
17	
18	<i>In re Chi-Feng Huang</i> , 23 B.R. 789 (B.A.P. 9th Cir. 1983)
19	
20	<i>In re Cochise College Park, Inc.</i> , 703 F.2d 1339 (9th Cir. 1983)
21	
22	<i>In re Columbia Gas Systems Inc.</i> , 997 F.2d 1039 (3d Cir. 1993)
23	
24	<i>In re Friarton Estates Corp.</i> , 65 B.R. 586 (Bankr. S.D.N.Y. 1986).....3
25	
26	<i>In re Garden Manor Associates</i> , 70 B.R. 477 (Bankr. N.D. Cal. 1987)
27	
28	<i>In re Guy F. Atkinson & Co.</i> , No. C 98-4577 SL, 2000 WL 52317, at *1 (N. D. Cal. Jan. 18, 2000)
29	
30	<i>In re Megafoods Stores, Inc.</i> , 163 F.3d 1063 (9th Cir. 1998)
31	
32	<i>In Re NextWave Pers. Commc'ns, Inc.</i> , 200 F.3d 43 (2d Cir. 1999)
33	
34	<i>In Re Quanta Resources Corp.</i> , 739 F.2d 912 (3rd Cir. 1984), <i>aff'd sub nom</i> , 474 U.S. 494 (1986)
35	

1	<i>In re St. Mary's Hospital,</i> 86 B.R. 393 (Bankr. E.D. Pa. 1988)	3
2	<i>In the Matter of Mirant Corp.,</i> 378 F.3d 511 (5 th Cir. 2004)	4
4	<i>Midlantic Nat'l Bank v. New Jersey Dept. of Envtl. Prot.,</i> 474 U.S. 494, 106 S.Ct. 755 (1986).....	4
5	<i>NextEra Energy, Inc. v. Pacific Gas & Electric Co.,</i> 166 FERC ¶ 61,049 (1/25/19).....	4
7	<i>Pacific Bell v. Public Utilities Com'n</i> 79 Cal.App.4th 269 (2000)	5
8	<i>Snyder v. Southern Cal. Edison Co.,</i> 44 Cal.2d 793 (1955)	7
10	<i>Southern California Edison Co. v. City of Victorville,</i> 217 Cal.App.4th 218 (2013)	5
11	<i>Southern California Edison Co. v. Public Utilities Com.,</i> 140 Cal.App.4th 1085 (2006)	7
13	<i>Stern v. Marshall,</i> 564 U.S. 462 (2011).....	7
14	<i>Tesoro Refining & Marketing Company LLC v. Pacific Gas and Electric Company,</i> 146 F.Supp.3d 1170 (N.D. Cal. 2015).....	5
16	<i>Wah Chang v. Duke Energy Trading & Mktg., LLC,</i> 507 F.3d 1222 (9th Cir. 2007)	3
17	Statutes	
18	11 U.S.C. Section 541(d).....	12
20	28 U.S.C. Section 959	3, 19
21	Section 959(b).....	passim
22	Bankruptcy Code	
23	Section 101(27).....	1
23	Section 362(b)(4)	19
24	Section 363	6
24	Section 364(c)(2)	6
25	Section 364(c)(3)	6
25	Section 364(d).....	6
26	Section 365	3
26	Section 365(g).....	4
27	Section 502(g).....	4
27	Section 541(d).....	passim

1	Public Utilities Code, 366.2(a)(9)	15
2	Other Authorities	
3	Assembly Bill 117 (2002).....	1, 4, 7, 17
5	H.R. REP. 95-595, 368, 1978 U.S.C.C.A.N. 5963, 6324	13
6	Legislative History for Public Utilities Code, Section 366.2	15
8	PG&E Electric Rule No. 23	passim
9	Senate Bill 790 (2011).....	passim
11		
12		
13		
14		
15		
16		
17		
18		
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Sonoma Clean Power Authority, a California joint powers authority¹ and a “governmental unit” (as defined in Bankruptcy Code section 101(27)) (“SCPA”), submits this Statement of Support for the Debtors’ Public Programs Motion (the “Motion”) and Reservation of Rights. This Statement is joined by the additional Community Choice Aggregators (“CCAs”) that are identified above and in the attached signature pages. Separate joinders in separate pleadings also may be filed by other CCAs and affiliated entities.

I. STATEMENT OF SUPPORT FOR CCA PROTECTIONS, AS DESCRIBED IN EXHIBIT A AND THE MOTION

Representatives of SCPA and Pacific Gas and Electric Company (together with PG&E Corp., “PG&E”) have met and conferred prior to this filing regarding Community Choice Aggregators’ (“CCAs”) requests for certain protections for Community Choice Aggregators (“CCAs”) in connection with the Motion, including with respect to what is defined herein as “CCA Customer Revenue” (and constituting “public funds” of SCPA) under “PG&E’s Regulated Tariffs” and other laws and regulations, that will entitle PG&E (a) timely to perform its obligations to the CCAs as defined in those applicable California laws and regulations, including without limitation Assembly Bill (“AB”) 117 (2002) and Senate Bill (“SB”) 790 (2011) and PG&E Electric Rule 23, including those CCAs appearing in this matter, and (b) to comply timely in accordance with those laws and regulations, including as implemented in the California Public Utilities Commission (“CPUC”) required and approved CCA Service Agreement (PG&E Electric Sample Form No. 79-1029) between each CCA and PG&E that incorporate and embody those laws and regulations with the force of law.

In response to PG&E's request, CCAs prepared and proposed a CCA consensus insert in the form of **Exhibit A** for this court's approval order. The CCA's proposal reflects CCA needs for clarity for CCA lenders, suppliers, and other constituents. CCAs provided a copy of the language set forth in **Exhibit A** to PG&E.

¹ The governmental units that are members of the SCPA joint powers authority are Cloverdale, Cotati, Petaluma, Santa Rosa, Rohnert Park, Sebastopol, Sonoma, Sonoma County (unincorporated areas), Windsor, Fort Bragg, Willits, Point Arena, and Mendocino County (unincorporated areas). (Declaration of Geoffrey G. Syphers, ¶ 7.)

1 The protections set forth in **Exhibit A** are consistent with PG&E's statements in its Public
2 Program Motion (Docket No. 16 in both cases).

3 The CCA protections set forth in **Exhibit A** and the Motion are also fully consistent with
4 PG&E's statements to the CPUC on January 23, 2019² and with analysis included in the CPUC's
5 decision adopted at the CPUC's emergency meeting held on January 28, 2019:

6 PG&E also noted that it acts as a billing agent on behalf of Community
7 Choice Aggregators (CCA) in its service territory and the revenue it
8 collects is not part of the assets secured by the DIP financing. The
9 Commission expects PG&E to continue its obligation to act as a billing
agent for CCAs, Energy Service Providers, and Core Transport Agents
consistent with the statements of PG&E at the PHC.³

10 For the purpose of this Statement of Support and the accompanying Declaration of
11 Geoffrey G. Syphers, the following definitions shall apply:

12 “CCA Customer Revenue” shall mean charges applied by a CCA to its CCA customers,
13 which charges are billed and collected by PG&E as the exclusive statutory and regulatory billing

14

² On January 23, 2019 at the CPUC prehearing conference related to PG&E's request for statutory
15 exemptions in connection with PG&E's DIP financing, PG&E's counsel Henry Weissmann
affirmed PG&E's lack of ownership in the CCA Customer Revenue:

16 ALJ COOKE: Did the terms for the DIP spell out what assets are being
17 encumbered or used for securitization?

18 MR. WEISSMANN: It is a general statement as is typical in a DIP
19 Loan. So it's basically assets that are owned by the utility. I do want to
clarify in this regard that it only applies to assets owned by the Utility.
20 So if there are assets, as there are, which belong to third-parties, those
21 are not subject to the security interest under the DIP Loan. So for an
example, there are CCA representatives here. *CCA Revenue is collected
by the Utility as a billing agent for CCAs. So that money belongs to the
CCAs and is not part of the security interest that's granted.*

22 Reporter's Transcript (“RT”), 80:4-21, January 23, 2019 Prehearing Conference, “Application of
23 Pacific Gas and Electric Company to Increase Its Authority to Finance Short-Term Borrowing
24 Needs and Procurement Related Collateral Costs by \$2.0 Billion to an Aggregate Amount Not to
Exceed \$6.0 Billion,” CPUC Docket No. A.18-10-003 (emphasis added). PG&E's request for
25 statutory exemptions in connection with PG&E's DIP financing is also being concurrently
addressed in CPUC Docket No. A.18-11-001.

26 ³ *Decision Granting Pacific Gas and Electric Company an Exemption From Public Utilities Code
27 Sections 823 and 851 for the Limited Purpose of Debtor-in-Possession Financing*, issued in
CPUC Docket No. A.18-10-003 at 14. (An identical analysis is included in the CPUC's final
decision issued in CPUC Docket No. A.18-11-001 at p. 15.)

1 agent/servicer on behalf of a CCA for energy provided by a CCA to serve its customers, whether
2 pre- or post-petition, and any funds collected and held by PG&E on account of such charges, as
3 further described in PG&E Electric Rule No. 23, Section Q, Subsections 1, 3 and 4, such CPUC
4 approved CCA Service Agreements (defined below), and other amounts recoverable from PG&E
5 by any CCA thereunder, consistent with the rights of each CCA under Section 541(d) of the
6 Bankruptcy Code and applicable non-bankruptcy law and regulations, including by the CCA
7 Service Agreements implementing those laws and regulations pursuant to PG&E Regulated
8 Tariffs.

9 “CCA Service Agreement” shall mean the form agreement (Standard Form 79-1029)
10 included as part of PG&E’s Regulated Tariffs that applies PG&E’s rules and other tariff
11 provisions to CCA service as a “force of law” contract.⁴ PG&E’s “Electric Sample Form No. 79-

12

13 ⁴ SCPA refers to the CCA Service Agreements and other CPUC approved and required contracts
14 and CPUC tariffs as “force of law contracts,” because they are distinguished from executory
15 contracts under Bankruptcy Code § 365 and cannot and should not be rejected by PG&E. PG&E
16 cannot reject its obligations under laws or regulations, even if they are implemented by CCA
17 contracts that are required by such tariffs, laws or regulations. *See, e.g., Wah Chang v. Duke*
18 *Energy Trading & Mktg., LLC*, 507 F.3d 1222 (9th Cir. 2007) (barring retail purchaser from
19 challenging anticompetitive conduct in wholesale electricity market because rates in purchase
20 contract were the result of FERC jurisdictional tariff); *In re Calpine Corp.*, 337 B.R. 27, 35
21 (Bankr. S.D.N.Y. 2006) (dismissing debtor-in-possession’s motions to reject energy contracts
22 because rejection would directly interfere with FERC jurisdiction and constitute collateral attack
23 on filed rates); *In Re NextWave Pers. Commc’ns, Inc.*, 200 F.3d 43, 55 (2d Cir. 1999), *aff’d, FCC*
24 *v. NextWave Pers. Commc’ns, Inc.*, 537 U.S. 293, 299 (2003) (holding that bankruptcy court has
25 jurisdiction over those transactions that “do not touch upon” a regulatory agency’s authority);
Garland & LaChance Const. Co., Inc. v. City of Keene, 144 B.R. 586, 589 (D.N.H. 1991)
26 (rejecting, in abstention proceeding, debtor’s characterization of stipulation and decree as a mere
executory contract, instead finding agreement “to be intimately involved in the ongoing exercise
of . . . regulatory powers”); *In re Friarton Estates Corp.*, 65 B.R. 586 (Bankr. S.D.N.Y. 1986)
(finding that the right to reject executory contracts pursuant to Bankruptcy Code § 365 did not
entitle debtor to reject leases to remove rent-controlled tenants and re-let apartments at higher
rates) (citing *In Re Quanta Resources Corp.*, 739 F.2d 912, 919 (3rd Cir. 1984), *aff’d sub nom.*,
474 U.S. 494 (1986) (stating the main principle behind 28 U.S.C. § 959(b), in that the debtor, in
effecting its plan during bankruptcy, must comply with all applicable federal, state, and local
laws); *In re Briarcliff*, 15 B.R. 864, 886 (D.N.J. 1981)); *In re St. Mary’s Hospital*, 86 B.R. 393,
398 (Bankr. E.D. Pa. 1988) (the city could enjoin debtor’s noncompliance with applicable laws
pursuant to 28 U.S.C. § 959); *In re Garden Manor Associates*, 70 B.R. 477 (Bankr. N.D. Cal.
1987) (allowing enforcement by HUD of its Regulatory Agreement, implementing its statutory
and regulatory authority, because it was more than a private contract, as protecting the
governmental policies at issue).

27 Although CCA issues are distinguishable in some ways from those that are currently the
28 subject of FERC proceedings and court decisions regarding the bankruptcy rejection of FERC
filed rate power contracts, FERC and other authorities have also supported force of law arguments

1 1029" states:

2 1.2 The form of this Agreement has been developed as part of the CPUC
3 regulatory process to implement Assembly Bill 117, was intended to
4 conform to CPUC directions, was filed and approved by the CPUC for use
between PG&E and CCAs and may not be waived, altered, amended or
modified, except as provided herein or in the applicable community choice
aggregation tariff, or as may otherwise be authorized by the CPUC.

5
6 The CCA Service Agreement, based on the sample form, is required to conform to CPUC
7 decisions, contain required elements, and is filed with proposed tariffs. CCAs are required to have

8
9 like those advanced by CCAs here. CCAs direct this court's attention to the very recent FERC
10 decision in the *NextEra Energy, Inc. v. Pacific Gas & Electric Co.*, 166 FERC ¶ 61,049 (1/25/19)
11 ("We conclude that this Commission and the bankruptcy courts have concurrent jurisdiction to
12 review and address the disposition of wholesale power contracts sought to be rejected through
13 bankruptcy."). In that decision FERC considered all the arguments of the parties and noted the
14 "unsettled state of the law" by contrasting *In the Matter of Mirant Corp.*, 378 F.3d 511 (5th Cir.
15 2004) and *FirstEnergy Solutions Corp. v FERC*, 2018 WL 2315916 (Bankr. N.D. Ohio May 18,
16 2018) (now on appeal in the Sixth Circuit, Case Nos. 18-3787, 18-3788, 18-4095, 18-4097, 18-
17 4107, 18-4110) with *In re Calpine Corp.*, 337 B.R. 27 (S.D.N.Y. 2006), and *In re Bos.
18 Generating, LLC*, No. 10 Civ. 6258, 2010 WL 4616243 (S.D.N.Y. Nov. 12, 2010). CCAs reserve
19 the issue today, given the specific nature of the relief requested by CCAs herein, since SCPA and
other CCAs' ownership of the CCA Customer Revenue does not depend on the CCA Service
20 Agreements, but instead arises from applicable law and regulations that create a whole regulated
industry that must endure and compel compliance regardless of the fate of the contracts that
implement and embody such laws and regulations (e.g., AB 117 (2002), SB 790 (2011), Rule 23).
Among other things, even if those CCA contracts somehow could be rejected in theory, that would
still result in PG&E causing a statutory breach of the contract, while still being fully obligated and
accountable, in accordance with 28 U.S.C. § 959(b) and otherwise under the laws and regulations
implemented in part through CCA contracts. See 28 U.S.C. § 959(b); *Midlantic Nat'l Bank v.
New Jersey Dept. of Envl. Prot.*, 474 U.S. 494, 505-507, 106 S.Ct. 755, 761-762 (1986) (holding
trustee may not abandon property in violation of state environmental laws); see also *In re
Megafoods Stores, Inc.*, 163 F.3d 1063, 1069 (9th Cir. 1998) (discussing how debtors in
bankruptcy are subject to state tax laws).

21 CPUC-approved CCA Service Agreements are part of tariffs and equivalent to the "filed
22 rate" that cannot be rejected or modified. See, e.g., *In re Calpine Corp.*, *supra*, 337 B.R. 27 and
23 our recollection of Judge Montali's tentative ruling in the Qualifying Facilities ("QF") contract
disputes in the previous PG&E Chapter 11. Not only would PG&E have failed to escape its
24 burden by rejecting the contract, but it would be worse off, i.e., both (i) subject to the legal,
regulatory, and political consequences of noncompliance with the laws and regulations that remain
25 applicable despite rejection, and (ii) liable for damages under Sections 365(g) and 502(g) and
under some circumstances administrative claims and other consequences for post-petition
26 wrongdoing, especially if there were any conversion of CCA public funds. Moreover, even if the
27 business judgment standard were applied to PG&E's decision (as opposed to the heightened
standard of *In re Mirant Corp.*, *supra*, 378 F.3d at 524-525), there is no rational basis for trying to
reject such a force of law contract and tariff, especially if PG&E is solvent and still must comply
with the laws and regulations that continue to empower the CCAs and obligate PG&E. See *In re
Chi-Feng Huang*, 23 B.R. 789 (B.A.P. 9th Cir. 1983) (denying windfalls to equity holders from
rejecting executory contracts in Chapter 11 cases where creditors are paid in full).

1 the Service Agreement in place and include it with their registration with the CPUC. The specific
2 CCA Service Agreement applicable to SCPA was approved by the CPUC in Resolution E-4624
3 on November 14, 2013, as a PG&E Regulated Tariff. (Declaration of Geoffrey G. Syphers, ¶ 17.)

4 "PG&E's Regulated Tariffs" shall mean electric service tariff provisions that have been
5 approved and made enforceable by the CPUC, as regulator over PG&E's operations, and therefore
6 have the force of law⁵ with respect to CCA Customer Revenue, including but not limited to PG&E
7 Electric Rule No. 23 (also known as "Rule 23"), Section Q, Subsections 1, 3 and 4, as applied to
8 PG&E pursuant to the CCA Service Agreement, consistent with the rights of a CCA under Section
9 541(d) of the Bankruptcy Code and applicable non-bankruptcy law and regulations. The CPUC's
10 General Order ("GO") 96-B describes "tariffs" as the following:

11 3.15 Tariffs

12 "Tariffs" refer collectively to the sheets that a utility must file, maintain,
13 and publish as directed by the Commission, and that set forth the terms
14 and conditions of the utility's services to its customers; "tariffs" may also
15 refer to the individual rates, tolls, rentals, charges, classifications, special
16 conditions, and rules of a utility.

17 Similar to that limited interest claimed by a mortgage servicer as referenced in Bankruptcy
18 Code section 541(d), there clearly is no equitable or beneficial interest of PG&E in CCA
19 Customer Revenue for reasons stated herein. PG&E repeatedly acknowledges this fact. For

20 ⁵ Several California opinions have concluded that utility tariffs when approved by the CPUC have
21 the force of law:

22 Section 489, subdivision (a), requires every public utility to file with the
23 PUC a tariff—a schedule "showing all rates, tolls, rentals, charges,
24 and classifications ... together with all rules, contracts, privileges, and
25 facilities which in any manner affect or relate to rates, tolls, rentals,
classifications, or service." *Such a tariff, when approved by the PUC,
has the force of law.* (*Trammell v. Western Union Tel. Co.* (1976) 57
Cal.App.3d 538, 549–550, 129 Cal.Rptr. 361.) Only by following
procedures specified in or developed under section 454 may the utility
then change its published tariff. *Wood v. Public Utilities
Commission* (1971) 4 Cal.3d 288, 292–293, 93 Cal.Rptr. 455, 481 P.2d
823

26 *Pacific Bell v. Public Utilities Com'n* 79 Cal.App.4th 269, 273–274 (2000) (emphasis added.); *see*
27 *also Southern California Edison Co. v. City of Victorville*, 217 Cal.App.4th 218, 228 (2013); *see*
28 *also Tesoro Refining & Marketing Company LLC v. Pacific Gas and Electric Company*, 146
F.Supp.3d 1170, 1182 (N.D. Cal. 2015) (acknowledging tariffs approved by the CPUC have the
force of law).

1 example, PG&E provides the following response on its website to a frequently asked question:

2 How will I be billed for CCA service?

3 Customers who receive their electric supply from a CCA receive a
4 consolidated bill issued by PG&E that includes charges from both parties.
5 This is not a double bill or charge. *PG&E collects payments on behalf of*
6 the CCA, and these payments are then sent to the CCA.

7 https://www.pge.com/en_US/residential/customer-service/other-services/alternative-energy-providers/community-choice-aggregation/faq.page, last visited on January 17, 2019 (italics
8 added).

9 PG&E has further proposed CCA protections in the Motion to continue to timely remit the
10 CCA Customer Revenue to SCPA and other CCAs in the ordinary course of business consistent
11 with applicable state law, PG&E's Regulated Tariffs and other laws, regulations and tariffs.⁶ In
12 addition, the CCAs are requesting similar protections in connection with PG&E's Postpetition
13 Financing Motion as well to allow for the CCA Customer Revenue, among other things, to be
14 carved out and excluded from (a) any security interest and lien upon property of the Debtors
15 granted pursuant to Section 364(c)(2), (3) and/or (d) of the Bankruptcy Code or under any other
16 authority, and (b) any authorization to use cash collateral under Section 363 of the Bankruptcy
17 Code or otherwise, except that PG&E shall not be disabled or interfered with in its legal and
18 regulatory compliance timely to remit the CCA Customer Revenue to the applicable CCA in the
19 ordinary course of business, consistent with such applicable laws, regulations and CCA Service
20 Agreements. *See* SCPA's Statement of Support for Debtor's Motion for Postpetition Financing
21 and Reservation of Rights, which is substantially similar to this Statement and filed
22 contemporaneously herewith.

23 Based on the CCA protections proposed in **Exhibit A** and the Motion, SCPA's hopes for
24 further progress in its constructive discussions with PG&E over remaining issues, SCPA supports

25
26 ⁶ In the context of the Motion, PG&E refers to these funds and remittances as TPP Funds and TPP
27 Costs, with the former pertaining to collected amounts from Customers and the latter pertaining to
28 remittances to, among others, the CCAs. SCPA believes that these terms include what SCPA has
described as CCA Customer Revenue, and are part of PG&E's Customer Program Obligations
(see pp. 12 and 26 of the Motion).

1 the Motion, requesting inclusion of CCA protections in the Court's order, while reserving all other
2 rights and interests as provided in **Exhibit B**. SCPA consents to entry of the final order on the
3 Motion by the bankruptcy judge as to such **Exhibit A** protections for CCAs, to the extent that can
4 be done without prejudice to the generally reserved *Stern*⁷ and related objections for other disputes
5 and matters, as described in **Exhibit B**. The comprehensive rights, governmental powers, claims,
6 and interests of SCPA and other CCAs, fully reserved, are beyond the scope of this filing, but are
7 more complex than usual for this topic, considering (i) the regulated nature of PG&E by the
8 CPUC and the Federal Energy Regulatory Commission ("FERC"), (ii) the California statutory and
9 regulatory regime imposed on PG&E still applicable under 28 U.S.C. § 959(b), and (iii) the
10 governmental unit character of SCPA and other CCAs with special protections under Senate Bill
11 ("SB") 790 (2011) and Rule 23. The regulatory power of CPUC also has the force of law.

12 The PUC adopted its Rules of Practice and Procedure pursuant to its
13 rulemaking authority (Cal. Const., art. XII, § 2; Pub. Util. Code, § 701). A
14 regulation adopted by an administrative agency under its rulemaking
authority has the force and effect of law. (Citations omitted.)

15 *Southern California Edison Co. v. Public Utilities Com'n.*, 140 Cal.App.4th 1085, 1092 (2006).

16 Contrary to defendant's contention the statutes and rules of the
17 commission do impose a direct and positive duty on the operator of a
18 utility. This is evident from the regulations heretofore quoted. The rules
19 were promulgated for the safety of workmen as well as the public and civil
20 penalties are imposed on the utility for failure to comply with them and
criminal penalties are imposed on the officers and employees of the utility.
Utilities may not operate except by permission of the commission which
imposes the duties heretofore set forth together with other regulations
pertinent to the operation of such organizations.

21 *Snyder v. Southern Cal. Edison Co.*, 44 Cal.2d 793, 801 (1955).

22 II. THE CCAS' PURPOSE AND THEIR RELATIONSHIP WITH PG&E

23 A. CCAS ARE LOAD SERVING GOVERNMENTAL UNITS WHOSE CCA 24 CUSTOMER REVENUE IS BILLED AND COLLECTED BY PG&E AS 25 AGENT AND REMITTED TO THE CCA UNDER OBLIGATIONS IMPOSED BY STATUTE, REGULATION AND CPUC-APPROVED CONTRACT AGREEMENTS AND TARIFFS.

26 SCPA is a CCA, established pursuant to Assembly Bill ("AB") 117 adopted in 2002,

27
28 ⁷ *Stern v. Marshall*, 564 U.S. 462 (2011).

1 following the 2001-2002 California Energy Crisis. In response to the California Energy Crisis, the
2 California Legislature created CCAs as an alternative to and an exception to the investor-owned
3 utility (“IOUs”) monopoly over electricity sales to customers. The specific, distinct and important
4 role of CCAs as an IOU alternative in California’s energy markets and renewable energy future
5 and the requirement that IOUs co-exist alongside CCAs was further reinforced with passage by
6 the California Legislature of SB 790 in 2011.⁸

7 CCA programs are delivered to CCA customers by governmental units enabled under
8 California law to purchase and aggregate energy on behalf of their community members. CCA
9 programs are administered by local governments (at present as joint power authorities created by
10 various cities and counties, such as SCPA, or as an enterprise fund within a single city or county)
11 with a mission to provide competitive clean energy alternatives to IOU sources, such as PG&E.
12 When a city, county or joint powers agency implements or joins a CCA program, all PG&E
13 residential customers within the CCA program’s service area automatically become customers of
14 the CCA, unless they choose to opt out. CCAs provide reliable service, a power mix with more
15 renewable and/or greenhouse gas-free energy than required by law at competitive rates,
16 and innovative programs that benefit people, the environment, and the economy in communities in
17 PG&E’s territory and across California. (Declaration of Geoffrey G. Syphers, ¶¶ 8, 9, 12.)

18 Statewide, 19 CCAs, including SCPA, independently procure energy and provide a wide
19 array of services directly to over **8 million CCA customers (more than 2.5 million customer**
20 **accounts)**. CCAs are an essential and growing part of the State’s clean energy mandates. In the
21 PG&E territory, approximately **41%** of the load will be served by CCAs in 2019, absent any
22 disruption by this case which SCPA is constructively working with PG&E to avoid. As of
23 August 2018, the 11 Northern California CCAs in PG&E territory have executed contracts totaling
24 **1,239 megawatts (“MW”) of renewable energy from new California facilities** with commercial

25
26 ⁸ See, e.g., SB 790; Sec. 2(d) (“The Public Utilities Commission has found that conduct by
27 electrical corporations to oppose community choice aggregation programs has had the effect of
causing community choice aggregation programs to be abandoned.”) and Sec. 2(g) (“California
has a substantial governmental interest in ensuring that conduct by electrical corporations does not
threaten the consideration, development, and implementation of community choice aggregation
programs”).

1 operation dates between 2018 and 2021. (Declaration of Geoffrey G. Syphers, ¶¶ 25-26.)

2 Pursuant to applicable state law, PG&E's Regulated Tariffs and other laws, regulations and
3 tariffs, PG&E is mandated to provide both (i) transmission and distribution services to deliver
4 energy procured by CCAs for their customers, as well as (ii) billing and collection services for
5 CCAs' benefit as to CCA customers using CCA energy. CCA customers receive their energy from
6 the CCA rather than the IOU, unless they opt out. As a result, CCAs are load-serving
7 governmental units responsible for securing sufficient electricity supplies to meet the needs of
8 their customers. (Declaration of Geoffrey G. Syphers, ¶¶ 27, 28.)

9 The CCAs are mandated by state law to use the IOUs, like PG&E, as their exclusive
10 billing and collection agents. There is no provision for a "back-up" billing and collection agent –
11 the CCAs have no choice other than the IOUs.

12 Expansion of CCA programs did not change the consolidated billing practices of the IOUs.
13 The bills sent by PG&E to CCA customers break out CCA charges from PG&E's own charges, so
14 that CCA customers always know how much they are paying to their CCA for energy. However,
15 the separate CCA charges and PG&E charges still are delivered through a single, consolidated bill.
16 (Declaration of Geoffrey G. Syphers, ¶ 18.)

17 In light of this consolidated billing arrangement, disruption of CCA Customer Revenue
18 timely being paid to CCAs would materially interfere with energy supplies, causing serious adverse
19 consequences. SCPA alone received \$173.1 million in 2018 revenue from more than 223,000 CCA
20 customers, all of which was CCA Customer Revenue. (Declaration of Geoffrey G. Syphers, ¶ 13.)

21 **B. PG&E HAS NO OWNERSHIP OR BENEFICIAL INTEREST IN THE CCA
22 CUSTOMER REVENUE.**

23 As further described below, in fulfilling its statutorily and regulatorily mandated billing
24 and collection agent role for CCAs, PG&E functions like the mortgage servicer referenced in
25 Bankruptcy Code section 541(d), except that CCAs' ownership of those public funds is not just
26 protected by PG&E's Regulated Tariffs, including the CPUC-approved force of law CCA Service
27 Agreements, and other laws, regulations and tariffs, but also directly by the obligation of PG&E as
28 a chapter 11 debtor in possession to abide by those laws, regulations and tariffs under 28 U.S.C. §

1 959(b) and otherwise, consistent with its fiduciary duties to CCAs.

2 Again, as noted above, PG&E's lack of ownership of the CCA Customer Revenue and its
3 billing service responsibility has been recently confirmed in the CPUC's decision adopted at the
4 CPUC's emergency meeting held on January 28, 2019:

5 PG&E also noted that it acts as a billing agent on behalf of Community
6 Choice Aggregators (CCA) in its service territory and the revenue it
7 collects is not part of the assets secured by the DIP financing. The
8 Commission expects PG&E to continue its obligation to act as a billing
agent for CCAs, Energy Service Providers, and Core Transport Agents
consistent with the statements of PG&E and the PHC.

9 See footnote 3, *supra*. Likewise, PG&E's own documents regarding the fees associated with
10 consolidated billing on behalf of CCAs repeatedly delineate between fees owing to PG&E and
11 fees owing to CCAs.⁹

12 _____
13 ⁹ PG&E's own documents supporting CCAs' position include:

14 (a) *Electric Schedule E-CCA Services to Community Choice Aggregators*: In
15 laying out the fees associated with consolidated billing, PG&E provided the
following description of services:

16 Composite Bill-Ready Billing Fee

17 This fee covers the cost to present the CCA's energy and customer
18 charges. It also includes cost to process the CCA's energy charges and
customer payments.

19
20 Composite Rate-Ready Billing Fee

21 This fee covers the cost to present the CCA's energy and customer
22 charges on an additional bill page. It also includes cost to process the
23 CCA's energy charges and customer payments, and respond to CCA
calls regarding billing issues. (Section 7, a. & 8, a.)

24 (b) *Electric Rule 23 Community Choice Aggregation Service*

25 Section P. Billing Service Obligations:

26 (a) Description

27 PG&E shall provide two options for Consolidated PG&E Billing:

28 (1) Rate Ready – The customer's CCA shall send its rates to PG&E.
29 PG&E shall in turn send a consolidated bill, containing both PG&E
and CCA charges to the customer.

(2) Bill Ready – The customer's CCA shall send its bill to PG&E.

1 The normal and uninterrupted billing of customers and remittance of CCA Customer
2 Revenue through PG&E to CCAs (as CCA owned proceeds and public funds) is of the ***utmost***
3 importance in order for CCAs to meet their own obligations to their customers, suppliers,
4 contractors, and lenders. This is critical, because, as described above, PG&E is identified in the
5 statute as the *exclusive billing agent*, and CCAs presently have *no option to utilize another billing*

6
7 PG&E shall in turn send a consolidated bill, containing both PG&E
8 and CCA charges, to the customer.

9 2. Billing Information and Inserts

10 (a) Identify PG&E and CCA Charges

11 The consolidated PG&E bill, at a minimum, shall identify utility
12 charges as specified by the Commission or its codes and when CCA
13 charges are received shall identify, at a minimum, two sets of
14 charges: *one for PG&E services and another for CCA energy*
15 *services.*

16 Section Q. Payment and Collection Terms

17 1. PG&E shall pay the CCA the amounts paid to the utility for CCA
18 charges only after the payment is received from the customer.
19 Payments shall be transferred to the CCA electronically specifying
20 the amount paid by each specific customer account or group of
21 customer accounts if the customer is Summary Billed.

22 2. ...

23 3. PG&E shall remit payments to the CCA only for the amounts paid
24 by the CCA customer for payment of CCA charges. Payments are
25 due on or before the later of:

26 (a) Seventeen (17) calendar days after the bill was rendered to the
27 customer, or

28 (b) The next business day after the payment is received from the
customer.

29 4. PG&E shall process payments, post utility charges paid to customer
30 accounts, and transfer funds owed the CCA to the CCA. PG&E shall
31 debit to the CCA any amounts resulting from returned payments and
32 assess returned payment charges (i.e., a charge for each returned
33 payment) to the appropriate customers.

34 5. ...

35 6. The customer is obligated to pay PG&E for all utility and CCA
36 charges consistent with existing tariffs.

1 *agent* for their billing and collection. Any interruption in this billing process would have serious
2 adverse consequences for all parties and create significant risk and volatility to the State's energy
3 market.

4 The CCA protections proposed in **Exhibit A** and the Motion is exactly what is expected of
5 PG&E under CCA Service Agreements, applicable state law, PG&E's Regulated Tariffs and other
6 laws, regulations and tariffs. SCPA appreciates that PG&E acknowledges its role as collecting
7 "payments on behalf of the CCA." *See* footnote 2, *supra*. However, additional assurances in the
8 early stages of this Chapter 11 case, such as those in **Exhibit A**, are necessary and appropriate to
9 avoid interruption in remittances to CCAs, conflicts with DIP lenders or others who might
10 misunderstand the situation, resulting in adverse consequences for all parties in interest in the
11 event of any noncompliance by PG&E or any DIP lenders' interference with CCAs' public funds
12 through any overbroad DIP Loan arrangements.

13 **III. SCPA'S REBUTTALS TO ANY OPPOSITION TO THE PROPOSED PG&E**
14 **ACCOMMODATIONS TO CCAS.**

15 Because these issues are raised in First Day Motions, where it is not possible to anticipate
16 all oppositions to the proposed CCA protections in **Exhibit A** and the Motion, SCPA offers these
17 comments to dispel any unfounded concerns or objections that may be raised at the hearing,
18 particularly by creditors who do not understand how CCAs operate and their importance in the
19 California energy system. SCPA welcomes the opportunity to explain why the CCA-protective
20 language set forth in **Exhibit A** and the Motion is necessary and in the best interest of all parties-
21 in-interest. Any battle with any other party-in-interest over CCA Customer Revenue or other
22 rights, assets or claims would have serious adverse effects on the Chapter 11 estate and the
23 provision of electricity within the territory of PG&E. That is why PG&E is now doing the right
24 thing, consistent with its fiduciary duties as a debtor in possession and its stated statutory,
25 regulatory and tariff duties to CCAs.

26 As set forth in footnote 4, *supra*, the relief described in **Exhibit A** and the Motion is
27 necessary to ensure PG&E continues, as required by 28 U.S.C. §959(b) to comply with applicable
28 law, regulations, and tariffs. It does not expand the rights of CCAs. *See, e.g.*, 11 U.S.C. § 541(d);

1 H.R. REP. 95-595, 368, 1978 U.S.C.C.A.N. 5963, 6324; PG&E Electric Rule No. 23 (especially
2 Section Q); *In re Columbia Gas Systems Inc.*, 997 F.2d 1039, 1061 (3d Cir. 1993) (where refunds
3 were being provided from gas suppliers through a utility to customers, and where a party acts as a
4 “mere conduit” for funds, such party does not hold an equitable interest). Cases in the Northern
5 District of California have also found a “resulting” trust in similar situations. *See, e.g., Aikin v.*
6 *Neilson (In re Cedar Funding, Inc.)*, No. C 09-4311 RMW, 2012 WL 1110023, at *4 (N.D. Cal.
7 Mar. 31, 2012); *In re Guy F. Atkinson & Co.*, No. C 98-4577 SL, 2000 WL 52317, at *1 (N. D.
8 Cal. Jan. 18, 2000) (concerning partial summary judgment granted by Judge Carlson imposing a
9 resulting trust in favor of Yale University for funds transferred to a division of Debtor that were
10 commingled in the Debtor’s contractor deposit account and claimed by bank as collateral under its
11 security agreement with Debtor.)

12 No one should interfere with PG&E performing for CCAs its fiduciary duties as described
13 in *In re Cochise College Park, Inc.*, 703 F.2d 1339, 1356-57 (9th Cir. 1983) and other precedents,
14 especially as to governmental units the Legislature has directed to operate on par with PG&E.
15 Wisely, PG&E is mindful of the need for cooperation in timely doing the right thing to maintain
16 the ordinary course of business and the *status quo* and accommodate SCPA and the other CCAs in
17 promptly resolving these issues.

18 Clearly, choosing to comply with its existing obligations under applicable laws and
19 regulations is a valid exercise of PG&E’s business judgment. Such an exercise of its business
20 judgment is particularly appropriate in light of the fact that PG&E is heavily regulated by the State
21 of California, which has enhanced CCA protections in recognition of the need to protect CCAs in
22 order to further the State’s renewable energy and greenhouse gas reduction goals. The legislative
23 findings in support of the enhanced protections for CCAs in SB 790, include the following
24 illustrations and more:¹⁰

25
26 ¹⁰ Also note the following CPUC Decisions:
27
28

D.05-12-04. In discussing “Customer Deposits, Partial Payments and Termination Service”
the CPUC determined that IOUs and CCAs should collect their own deposits. The CPUC stated
the following:

1 SEC. 2. The Legislature finds and declares all of the following:

2 (a) It is the policy of the state to provide for the consideration, formation, and
3 implementation of community choice aggregation programs authorized in Section
4 366.2 of the Public Utilities Code.

5 (b) Since community choice aggregation programs were first authorized in 2002,
6 only one community choice aggregation program has been implemented.

7 (c) Electrical corporations [e.g., PG&E] have inherent market power derived from,
8 among other things, name recognition among customers, longstanding
9 relationships with customers, joint control over regulated operations and
competitive generation services, access to competitive customer information, and
the potential to cross-subsidize competitive generation services.

10 (d) The Public Utilities Commission has found that conduct by electrical
11 corporations to oppose community choice aggregation programs has had the effect
12 of causing community choice aggregation programs to be abandoned.

13 (e) The Public Utilities Commission has made considerable progress in identifying
14 and addressing the conduct that has hindered the creation of community choice
15 aggregation programs, and it is now appropriate to further address these issues in
statute.

16 (f) The exercise of market power by electrical corporations [e.g., PG&E] is a
17 deterrent to the consideration, development, and implementation of community
choice aggregation programs.

18
19 We adopt the utilities' proposal that each entity collect its own deposits
20 (although the CCA may collect the deposits using the utility's billing services).
21 While this policy may require some customers to pay two deposits, we have
22 consistently treated CCAs as stand-alone operations with ratemaking discretion.
(p. 42.)

23 D.04-12-046. "SCE and SDG&E state they will have incremental billing costs because
24 they will have to receive usage and other information from the CCA, then bill the customer on a
separate page from the utility's bill, then remit the payments to the CCA." (p. 16-17.) The CPUC
then determined that incremental billing costs should be allocated to the CCAs, and that the IOUs'
billing processing fees should be unbundled.

25 D.15-09-013. As a CCA, LCE will offer generation procurement service to its residents
26 and businesses while SCE will continue to provide transmission and distribution service to those
27 customers plus metering, billing and other services on behalf of LCE. These metering, billing and
other services are detailed in SCE's principal CCA fee schedule, tariff Schedule CCA-SF
(Community Choice Aggregation Service Fees). (p. 1.)

1 (g) California has a substantial governmental interest in ensuring that conduct by
2 electrical corporations does not threaten the consideration, development, and
implementation of community choice aggregation programs.

3 (h) It is therefore necessary to establish a code of conduct, associated rules, and
4 enforcement procedures, applicable to electrical corporations [e.g., PG&E] in
5 order to facilitate the consideration, development, and implementation of
6 community choice aggregation programs, to foster fair competition, and to protect
against cross-subsidization by ratepayers.

7 (brackets added.)

8 Public Utilities Code, 366.2(a)(9) states in part:

9 ... Electrical corporations [e.g., PG&E] shall continue to provide all metering,
10 *billing*, collection, and customer service to retail customers that participate in
11 community choice aggregation programs. *Bills sent by the electrical corporation*
to retail customers shall identify the community choice aggregator as providing
the electrical energy component of the bill. The commission shall determine the
12 terms and conditions under which the electrical corporation [e.g., PG&E] provides
services to community choice aggregators and retail customers.

13 (brackets and italics added). Consider also the *Legislative History for Public Utilities Code, 366.2:*

14 **COMMENTS:** Community aggregation is direct access on a large scale, similar to
15 formation of a municipal utility, except that a municipal utility is self-governing,
16 must purchase power or build plants and transmission lines, assume responsibility
17 for distribution, billing, and meter-reading. Under aggregation, most of the
18 responsibilities remain with the electrical corporation. The aggregator procures
electricity on the wholesale market, to be delivered through the electrical
19 corporation's infrastructure. Under this bill the CPUC would oversee and sanction
these transactions.

20 In the view of SCPA and its allied CCAs, the foregoing statements demonstrate that the
21 CCA protections in **Exhibit A** and the Motion are what is required by law. SCPA and its allied
22 CCAs simply will obtain undisturbed and continuous collection and remittance of CCA Customer
23 Revenue from CCA energy deliveries, program, service and other offerings for CCA customers in
24 accordance with CCA Service Agreements, applicable state law, PG&E's Regulated Tariffs and
25 other laws, regulations and tariffs, free from any claim of lien or security interest thereon by the
26 DIP Lenders.

27 Accordingly, CCA protections are consistent with both the ownership interests of SCPA and
28 its allied CCAs under Section 541(d) and the obligations of PG&E to comply with applicable law

1 under 28 U.S.C. § 959(b), and to fulfill its assurances to the CPUC cited above concerning the CCA
2 Customer Revenue.

3
4 DATED: January 29, 2019.

RESPECTFULLY SUBMITTED,

5 ENGEL LAW, P.C.

6 By: /s/ G. Larry Engel
7 G. Larry Engel

8 -and-

9 BOUTIN JONES INC.
10 Mark Gorton

11 -and-

12 SONOMA CLEAN POWER AUTHORITY
13 Jessica R. Mullan, General Counsel

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15 *Attorneys for Creditor and Party-in-Interest,*
16 *SONOMA CLEAN POWER AUTHORITY*

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Additional CCAs joining this Statement and the signatures of their counsel are on the following
pages.

1 City and County of San Francisco, on behalf of CleanPowerSF, a program of the San
2 Francisco Public Utilities Commission, a "governmental unit" (as defined in Bankruptcy Code
3 section 101), joins this Statement of Support and Reservation of Rights.

4 DATED: January ___, 2019.

5 RESPECTFULLY SUBMITTED,

6 DENNIS J. HERRERA
7 City Attorney
8 THERESA L. MUELLER
9 Chief Energy and Telecommunications Deputy

10 Attorneys for
11 CITY AND COUNTY OF SAN FRANCISCO
12 City Hall Room 234
13 1 Dr. Carlton B. Goodlett Place
14 San Francisco, California 94102-4682
15 Telephone: (415) 554-4640
16 E-Mail: theresa.mueller@sfcityatty.org

17 By: Theresa Mueller (by SA)
18 Theresa L. Mueller

19 *Attorneys for Creditor, CITY AND COUNTY OF SAN*
20 *FRANCISCO on behalf of CLEANPOWERSF and SAN*
21 *FRANCISCO PUBLIC UTILITIES COMMISSION*

22 SONOMA CLEAN POWER'S STATEMENT OF SUPPORT
23 AND RESERVATION OF RIGHTS

*EAST BAY COMMUNITY ENERGY, a Joint Powers Authority*¹ and a “governmental unit” (as defined in Bankruptcy Code section 101), joins the Statement of Support for the Debtors’ Motion for Postpetition Financing and Reservation of Rights.

DATED: January 29, 2019.

RESPECTFULLY SUBMITTED,

EAST BAY COMMUNITY ENERGY
Leah S. Goldberg, General Counsel

By 
Leah S. Goldberg
General Counsel

Attorneys for Creditor and Party-in-Interest
EAST BAY COMMUNITY ENERGY AUTHORITY

27 1 The governmental units that are members of the East Bay Community Energy Joint Powers
28 Authority are the County of Alameda, and the following cities: Albany, Berkeley, Dublin,
Emeryville, Fremont, Hayward, Livermore, Oakland, Piedmont, San Leandro, and Union City.

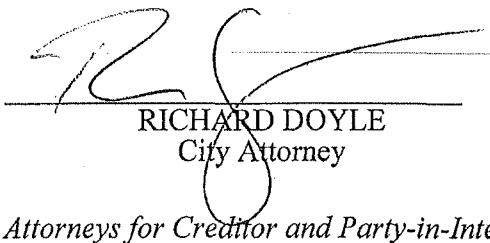
**SONOMA CLEAN POWER AUTHORITY'S STATEMENT OF SUPPORT
FOR POSTPETITION FINANCING MOTION AND RESERVATION OF RIGHTS**

City of San José, a California Charter City (San José Clean Energy), and a “governmental unit” (as defined in Bankruptcy Code section 101), joins the Statement of Support for the Debtors’ Motion for Postpetition Financing and Reservation of Rights.

DATED: January 28, 2019.

Very truly yours,

City of San José



RICHARD DOYLE
City Attorney

*Attorneys for Creditor and Party-in-Interest
City of San José*

1 Silicon Valley Clean Energy Authority, a California joint powers authority and a
2 "governmental unit" (as defined in Bankruptcy Code section 101), joins the Statement of Support for
3 the Debtors' Motion for Postpetition Financing and Reservation of Rights.

4 DATED: January ___, 2019.

5 RESPECTFULLY SUBMITTED,

6 SILICON VALLEY CLEAN ENERGY AUTHORITY
7 T. Peter Pierce, Assistant General Counsel

8 By: 

9 T. Peter Pierce
Assistant General Counsel

10 *Attorneys for Creditor and Party-in-Interest*
11 SILICON VALLEY CLEAN ENERGY AUTHORITY

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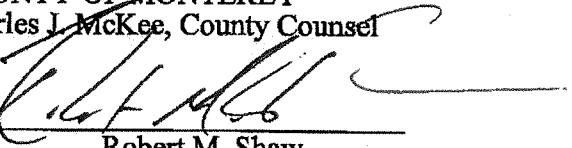
SONOMA CLEAN POWER AUTHORITY'S STATEMENT OF SUPPORT
FOR POSTPETITION FINANCING MOTION AND RESERVATION OF RIGHTS

1 Monterey Bay Community Power Authority, a California joint powers authority¹ and a
2 "governmental unit" (as defined in Bankruptcy Code section 101), joins the Statement of Support for
3 the Debtors' Motion for Post-petition Financing and Reservation of Rights.

4 DATED: January 28, 2019.

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RESPECTFULLY SUBMITTED,

COUNTY OF MONTEREY
Charles J. McKee, County Counsel

By: 

Robert M. Shaw
Deputy County Counsel

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Attorneys for Creditor, MONTEREY BAY
COMMUNITY POWER AUTHORITY

¹ The governmental units that are members of Monterey Community Power Authority joint powers agreement are the cities of Santa Cruz, Watsonville, Capitola, Scotts Valley, Salinas, Monterey, Pacific Grove, Carmel, Seaside, Marina, Sand City, Soledad, Greenfield, Gonzales, Hollister, San Juan Bautista, San Luis Obispo, Morro Bay, and the unincorporated areas of Monterey, Santa Cruz and, San Benito Counties

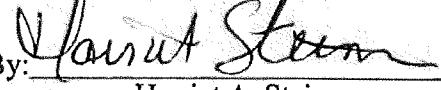
SONOMA CLEAN POWER AUTHORITY'S STATEMENT OF SUPPORT
FOR POSTPETITION FINANCING MOTION AND RESERVATION OF RIGHTS

1 Valley Clean Energy Alliance, a California joint powers authority¹ and a "governmental
2 unit" (as defined in Bankruptcy Code section 101), joins the Statement of Support for the Debtors'
3 Motion for Postpetition Financing and Reservation of Rights.

4 DATED: January 27, 2019.

5 RESPECTFULLY SUBMITTED,

6 BEST BEST & KRIEGER LLP

7 By: 
Harriet A. Steiner

8 *Attorneys for Creditor and Party-in-Interest*
9 **VALLEY CLEAN ENERGY ALLIANCE**

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¹ County of Yolo, City of Davis and City of Woodland.

SONOMA CLEAN POWER AUTHORITY'S STATEMENT OF SUPPORT
FOR POSTPETITION FINANCING MOTION AND RESERVATION OF RIGHTS

1 PIONEER COMMUNITY ENERGY, a California joint powers authority¹ and a
2 "governmental unit" (as defined in Bankruptcy Code section 101), joins the Statement of Support for
3 the Debtors' Motion for Postpetition Financing and Reservation of Rights.

4 DATED: January 29, 2019.

RESPECTFULLY SUBMITTED,

5 NEUMILLER & BEARDSLEE
6 A PROFESSIONAL CORPORATION

7 By: 

8 CLIFFORD W. STEVENS
9 Bankruptcy Counsel

10 *Attorneys for Creditor and Party-in-Interest*
11 PIONEER COMMUNITY ENERGY

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28 ¹ The governmental units that are members of the Pioneer Community Energy joint powers authority are Placer County (unincorporated areas), Auburn, Colfax, Lincoln, Loomis, and Rocklin

PIONEER COMMUNITY ENERGY'S STATEMENT OF SUPPORT

FOR POSTPETITION FINANCING MOTION AND RESERVATION OF RIGHTS

EXHIBIT A

EXHIBIT A

REMITTANCE PROTECTION FOR CCAs

Following discussion of agreed principles, this language has been proposed by CCAs to Debtors:

Because PG&E is a utility regulated by the California Public Utilities Commission (“CPUC”) pursuant to California State law, this Court only intends to approve preemption of those laws and regulations when it does so expressly, and not by implication by any general approval of any First Day Motions where they conflict with such law and regulation. The Court also wishes to avoid PG&E suffering under any inconsistent obligations implied from any such First Day Motions with such applicable laws and regulations. Therefore, without limiting the generality of those declarations, or limiting the rights and remedies of CCAs (as defined below) under applicable law and regulation, and notwithstanding any other provisions of the First Day Motions or supporting documents or this order to the contrary:

1. PG&E is hereby authorized (a) to perform timely its obligations to the “community choice aggregators” (“CCAs”) as defined in those applicable California laws and regulations, including without limitation AB 117 (2002) and SB 790 (2011) and PG&E Electric Rule 23, including those CCAs appearing in this matter, and (b) to comply timely in accordance with those laws and regulations, including as implemented in the CPUC required and approved CCA Service Agreement (PG&E Electric Sample Form No. 79-1029) (each a “Service Agreement”) between each CCA and PG&E that incorporates and embodies those laws and regulations with the force of law, and (c) to pay timely amounts, including the CCA Customer Revenue, to the applicable CCA, in accordance with applicable California laws and regulations and the Service Agreements.

2. Furthermore, nothing in this Order shall be deemed to suffer or permit the exercise of any right or remedy of any party that would or could directly or indirectly interfere with, impair or otherwise adversely affect the foregoing, especially as it relates to what is defined herein as "CCA Customer Revenue" being billed and collected by PG&E for the CCAs as their statutorily and regulatorily mandated pass through conduit and servicer as described in Bankruptcy Code section 541(d) and in accordance with such applicable laws and regulations and the implementing CCA Service Agreements, since such CCA Customer Revenue pertains to CCA energy so

1 supplied to CCA customers is “public funds” of such CCA governmental units.

2 3. For these purposes, “CCA Customer Revenue” shall mean charges applied by a
3 CCA to its CCA customers, billed and collected by PG&E as the exclusive statutory and
4 regulatory billing agent/servicer on behalf of a CCA for energy provided by a CCA to serve its
5 customers, whether pre- or postpetition, and any funds held or collected by PG&E on account of
6 such charges, as described in PG&E Electric Rule No. 23, Section Q, Subsections 1, 3 and 4, such
7 CPUC-approved CCA Service Agreements, and other amounts recoverable from PG&E by CCA
8 thereunder, consistent with the rights of CCA under section 541(d) of the Code and applicable
9 non-bankruptcy law and regulations, including by the force of law Service Agreements
10 implementing those laws and regulations.

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EXHIBIT B

EXHIBIT B

RESERVATION OF RIGHTS

Except as provided above, nothing herein nor in any other appearance, pleading, claim, proof of claim, suit, motion or any other writing or conduct shall constitute a waiver by SCPA of any procedural or substantive rights, remedies, claims, or defenses including, without limitation:

(a) the right to have all matters, except monetary "damages claims," probation violations, and criminal complaints, heard and resolved by the California Public Utilities Commission; (b) the right to have any and all final orders in any and all matters entered only after de novo review by a United States District Court Judge; (c) the right to have any matter heard and tried before an Article III court or, in the event of any applicable Chapter 9 case, such other bankruptcy court;

(d) the right to trial by jury in any proceeding as to any and all matters so triable therein, whether or not the same be designated legal or private rights, or in any case, controversy or proceeding related hereto, whether or not such jury trial right is pursuant to statute or the United States Constitution, as well as the rights of State governmental units as such for sovereign immunity or under applicable laws, including the Fifth and Tenth Amendments; (e) the right to have the reference of this matter withdrawn by the United States District Court in any matter or proceeding subject to mandatory or discretionary withdrawal; (f) other rights, claims, actions, remedies, defenses, setoffs, recoupments or other matters to which SCPA is entitled under any agreements or at law or in equity or under the United States Constitution, including those protecting public funds or which may be enforced as police or regulatory powers under Section 362(b)(4) or under 28 U.S.C. § 959; and (g) the right to be served directly with pleadings commencing an adversary proceeding, contested matter or other proceeding or action.

All of the above rights, claims, defenses, and remedies are hereby expressly reserved. The filing of this Statement and participating in these bankruptcy cases, or any of them, shall not be deemed to constitute a concession or admission of jurisdiction in the case or cases or before this court or any other court. SCPA does not consent to the bankruptcy court's jurisdiction or the jurisdiction of any other court. SCPA does not consent to the entry of final judgments, orders and/or decrees by the bankruptcy judge/bankruptcy court. At all times, SCPA demands a jury trial.

1 SCPA does not consent to the bankruptcy court/bankruptcy judge conducting any jury trial.
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PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 555 Capitol Mall, Suite 1500, Sacramento, California 95814. I am over the age of eighteen years and not a party to the foregoing action.

On January 29, 2019, I served the within:

- (1) SONOMA CLEAN POWER AUTHORITY'S STATEMENT OF SUPPORT FOR DEBTORS' MOTION FOR POSTPETITION FINANCING AND RESERVATION OF RIGHTS**
- (2) SONOMA CLEAN POWER AUTHORITY'S STATEMENT OF SUPPORT FOR DEBTORS' PUBLIC PROGRAMS MOTION AND RESERVATION OF RIGHTS**
- (3) DECLARATION OF GEOFFREY G. SYPHERS IN SUPPORT OF SONOMA CLEAN POWER AUTHORITY'S STATEMENT OF SUPPORT FOR DEBTORS' MOTION FOR POSTPETITION FINANCING AND PUBLIC PROGRAMS MOTION AND RESERVATION OF RIGHTS**

X (by mail) on all parties in said action by regular, first class United States mail, postage fully pre-paid, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At Boutin Jones Inc., mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Sacramento, California.

(by personal delivery) by personally delivering a true copy thereof to the person(s) and at the address(es) set forth below.

(by overnight delivery) on the following party(ies) in said action by placing a true copy thereof enclosed in a sealed envelope, with delivery fees paid or provided for, in a designated area for outgoing overnight mail, addressed as set forth below. In the ordinary course of business at Boutin Jones Inc., mail placed in that designated area is picked up that same day for delivery the following business day.

(by facsimile) by transmitting a true copy thereof to the persons at the following telecopier numbers and obtaining electronic confirmation that the transmissions have been received.

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Attorneys for W. BRADLEY ELECTRIC, INC.

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Request for Special Notice

Attorneys for ORACLE AMERICA, INC.

TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 1/29/19, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

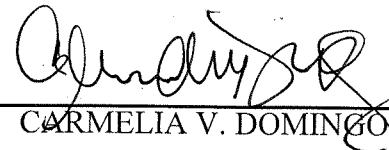
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6 *[x] See attached mailing matrix for additional parties served by first class mail*

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9 Executed on January 29, 2019, at Sacramento, California.

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11 CARMELIA V. DOMINGO

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Label Matrix for local noticing
0971-3
Case 19-30088
Northern District of California
San Francisco
Tue Jan 29 13:28:21 PST 2019

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The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

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(u)Butte County (u)Calaveras County Water District (u)California Independent System Operator

(u)California Public Utilities Commission (u)Calpine Corporation (u)City of Clearlake

(u)City of Napa (u)City of Santa Rosa (u)Federal Monitor

(u)Garcia and Associates (u)International Brotherhood of Electrical Workers (u)Lake County

(u)Mendocino County (u)Napa County (u)Nevada County

(u)Provencher & Flatt (u)Sonoma County (u)Sonoma County Agricultural Preservation and

(u) Sonoma County Community Development Commis

(u) Sonoma County Water Agency

(u) Sonoma Valley County Sanitation District

(u) TRC Companies, Inc.

(u) TURN-The Utility Reform Network

(u) Town of Paradise

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(u) Yuba County

End of Label Matrix	
Mailable recipients	63
Bypassed recipients	29
Total	92